

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600**

**WORKSESSION MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, November 8, 2006, 9:30 a.m.**

**ACTION ITEMS:**

1. **Minutes**, October 25, 2006 Worksession.

Action: Approved as amended, (WMH/CGT, 5-0).

2. **Order Extending Time for the Board's Written Opinion** for 30 days is required in the following cases:

- (a) **A-6126, Appeal of Eileen Finnegan of Hillandale Citizens Association, et al** (Department of Permitting Services – Issuance of Building Permit No. 409297), **A-6150, Appeal of Eileen Finnegan, John P. Thomas, et al** (Department of Permitting Services – Issuance of Building Permit No. 417007) and **A-6174, Appeal of Eileen Finnegan, John P. Tomas, Thomas O'Coin, Joseph Branch, Debra J. Morley and Hillandale Citizens Association, et al** (Department of Permitting Services – Issuance of Use and Occupancy Certificate). Hearings held 10/4/07/
- (b) **A-6151, Appeal of David Meyers** (Department of Permitting Services – Notice of Violation, dated May 10, 2006). Pre-hearing conference held 9/27/06.
- (c) **A-6153, Petition of Timothy Gardner** (two-story addition). Hearing held 9/27/06.
- (d) **A-6154, Petition of Timothy Gardner** (new single-family dwelling). Hearing held 9/27/06.
- (e) **A-6155, Petition of Stephen J. Rosen** (existing single-family dwelling and a one-story addition). Hearing held 10/4/06.
- (f) **CBA-2055-B, Petition of Steuart Petroleum Company** (automobile filling station). Show Cause Hearing held 9/27/06.

Action: Granted Order Extending Time, (DLB/CLH, 5-0).

3. **A-6112, Petition of James T. Gordon** (one-story addition). Order from the Circuit Court.

Action: Re-opened the record to include the Order from the Circuit Court, (DLB/CGT, 5-0).

4. **A-6143, Appeal of Mahdi Iman Huschman** (Department of Permitting Services (DPS) – Notice of Violation, dated April 17, 2006) and **A-6178, Appeal of**

**Abigail Moss, et al** (Department of Permitting Services – Issuance of Home Occupation Certificate, dated September 7, 2006). Letter to the Board from Norman Knopf, Esquire, requesting that the administrative appeal hearings be consolidated. Also included is a request from the appellant in A-6143 to intervene and support the consolidation of the administrative appeal hearings.

Action: (1) Granted the consolidation of the administrative appeal hearings; (2) schedule the pre-hearing conference in A-6178; (3) granted request to intervene, (CLH/WMH, 5-0).

5. **A-6180, Petition of Shelia E. Boland** (new single-family dwelling). Letter to the Board from Casey Moore, Esquire, withdrawing the petition and requesting a 90% refund of the filing fee.

Action: (1) Dismissed the petition as withdrawn; (2) granted 90% (\$360.00) refund of the filing fee, (DLB/WMH, 5-0).

6. **CBA-1801, Petition of Shell Oil Company** (automobile filling station). Letters to the Board from M. Lee Bouchez and J. G. Wagner requesting a transfer of the special exception and an administrative modification. [Large exhibits: site plan and dumpster details].

Action: (1) Granted the administrative modification; (2) granted the transfer of the special exception, (CGT/CLH, 4-0/AIF/recused).

7. **CBA-2114-A [CBA-2114], Petition of International Monetary Fund** (golf course and country club). Pending request for an administrative modification from Jacqueline M. Karp, Esquire. (Large exhibits: location map, golf course site plans, elevations). [W/S 5/4/05].

Action: Dismissed the administrative modification request for failure to prosecute, (WMH/DLB, 4-0/AIF/recused).

8. **CBA-2465, Petition of Marco Partnership** (outdoor automobile sales lot) and **CBA-2526, Petition of Manhattan Auto, Inc.** (off-street parking). Memorandum to the Board from Heather Gottke, Inspector, DPS, notifying the Board that the special exceptions are permitted as a matter of right and requesting that they be revoked.

Action: Revoked the special exceptions for lack of jurisdiction, (CGT/CLH, 5-0).

9. **S-226 [S-226-A, S-226-B], Petition of Westleigh Recreation Club, Inc.** (private club). Letter of opposition to the Board regarding modification of the special exception from Carol Bleakley.

Action: Re-opened the record to include the letter from Ms. Bleakley, (CLH/WMH, 5-0).

10. **S-456, Petition of 9800 Falls Road LLC** (medical clinic). Letter to the Board from Dr. Mahnaz Zarpak requesting a transfer of the special exception. Also included is a letter of consenting to the transfer from the petitioner.

Action: (1) Re-opened the record to include the letter from Mr. Keyes; (2) granted the transfer of the special exception, (CLH/CGT, 5-0).

11. **S-1239, Petition of Ernestine and Jewel Johnson** (accessory apartment). Pending request from John Whitt, Program Manager, Department of Housing and Community Affairs (DHCA), notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter from the petitioner requesting that the special exception be suspended and not revoked.

Action: Revoked the special exception as abandoned, (DLB/WMH, 5-0).

12. **S-1451, Petition of Phillip Hill** (trade, artistic or technical school). Memorandum to the Board from Heather Gottke, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (CGT/WMH, 5-0).

13. **S-1737, Petition of Dennis and Patricia Ettlin** (accessory apartment). Letter to the Board from Salman Waheed requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (DLB/CGT, 5-0).

14. **S-1869, Petition of Connie E. Kisner** (accessory apartment). Memorandum to the Board from Jerri Burgess, Housing Code Inspector, DHCA, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (CGT/CLH, 5-0).

15. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (public utility buildings, public utility structures and telecommunications facilities). Pending request for transfer of the special exception from Brian Hurley, Regional Real Estate Manager. [W/S 6/9/04].

Action: Dismissed the request as withdrawn, (WMH/CLH, 4-0/AIF/recused)

16. **S-2184, Petition of Charles R. Gilbert** (indoor rifle and pistol range). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board of the petitioner's blue ribbon certification and requesting that it be included in the record.

Action: (1) Re-opened the record to include the memorandum from Ms. Piczak; (2) staff to request additional information from special exception holder regarding membership, membership fees and the duration of membership; (3) request DPS inspect the special exception for the sale of firearms, (DLB/CLH, 5-0).

17. **S-2222, Petition of Woodfield Country Market, LLC** (automobile filling station). Letter to the Board from the petitioner agreeing to the transfer of the special exception. Also included is a letter from Inja Kim, DWDB, LLC, requesting the transfer of the special exception.

Action: (1) Re-opened the record to include the letter from Mr. McGrady; (2) granted the transfer of the special exception, (CLH/CGT, 5-0).

18. **S-2445, Petition of Susan J. Fiester, M.D.** (major home occupation). Memorandum from Françoise M. Carrier, Director, Office of Zoning and Administrative Hearing, referring a request for an administrative modification to the Board.

Action: (1) Granted the administrative modification; (2) granted the change in special exception renewal to every two years, (CGT/WMH, 5-0).

### **DECISION ITEMS:**

19. **S-2633, Petition of Devadasan Thomas** (accessory apartment). The Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (WMH/DLB, 5-0).

### **PENDING ITEMS:**

20. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07. [W/S 10/25/06].

21. **CBA-470-A, Petition of Kensington Nursery School** (private educational institution). Hearing Examiner's Report and Recommendation. Item deferred for the site plan required in Condition No. 3 of the Hearing Examiner's Report and Recommendation. [W/S 5-31-06].

22. **S-390, Petition of Twin Farms Club, Inc.** (community swimming pool). Letter to the Board from Teresa A. McKenna, President, requesting an administrative modification. (Large exhibit: site and grading plan). (1) Item deferred for receipt of a site plan with the existing conditions; (2) item referred to M-NCPPC Technical Staff for review of administrative modification request. [W/S 2/18/04].

23. **S-1884, Petition of Chakarat Sukachevin** (non-resident medical practitioner). Letter to the Board from Keith Rosa, Esquire, requesting a transfer and an administrative modification. (Large exhibits: landscape plan, front, right elevations and floor plans). Item deferred for additional information regarding landscaping and the stripping of the parking lot. [W/S 9/27/06].

24. **S-2328, Petition of Judith Himmelfarb** (accessory apartment). Letter to the Board from Ariel De notifying the Board that the special exception has been abandoned and requesting that it be revoked. Item deferred until confirmation that the accessory apartment's kitchen as been removed. [W/S 7/26/06].

### **PENDING ITEMS (continued):**

25. **S-2423 [S-2423-A], Petition of Meadow Ridge Seniors' Villas, LLC** (elderly or handicapped housing). Letter to the Board from Randy Frey, President, and Robert H. Holman, Managing Member, requesting an administrative modification. [Large exhibits:

landscaping and lighting plans]. (1) Deferred administrative modification request for 60 days; (2) administrative modification request reviewed by M-NCPPC Technical Staff. [W/S 12/7/05].

26. **S-2453, Petition of Academy Child Development** (child day care facility). Letter to the Board from Marilyn Fleetwood, President, requesting an administrative modification. Item deferred for additional information and what will be the impact of peak travel time, consensus. [W/S 5-31-06].

27. **S-2459, Petition of Hampshire Village Associates** (life care facility). Inspection reports from Barbara Piczak, Inspector, DPS, regarding the special exception's Community Council and its parking. Board will receive an additional inspection report after the compliance deadline. [W/S 6/28/06].

28. **S-2527, S2528, S-2529, Petition of Twin Ponds Farm, LLC** (wholesale horticultural nursery, landscape contractor, manufacture of mulch and compost). Letter of complaint from Robert A. Thomassen, Diane M. Hogan, John and Stephanie Egly, and Sugarloaf Citizens Association by Jane Hunter with a request that the Board convene a revocation hearing. Also included are letters from Erica Leatham, Esquire, requesting that the Board defer this request until its next Worksession. (1) Re-opened the record to include letters dated 4/21/06, 5/1/06, 5/5/06, 5/9/06, (2) request inspection by the Department of Permitting Services (DPS) to determine where special exception stands in terms of its implementation. [W/S 5/10/06].

29. **S-2666, Petition of Orlando Martinez and Martha Gaitan** (accessory apartment). Hearing Examiner's Report and Recommendation. Item deferred until receipt of a revised landscape plan. [W/S 6/28/06].

### **Board Members**

Allison Ishihara Fultz, Chair  
Donna L. Barron, Vice Chair  
Wendell M. Holloway  
Caryn L. Hines  
Catherine G. Titus

### **Staff**

Barbara Jay, Associate County Attorney  
Katherine Freeman, Executive Director  
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**WORKSESSION ADDENDUM MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, November 8, 2006, 9:30 a.m.**

**ACTION ITEM:**

1. **A-6162, Appeal of Andrew Russo, President Springfield Civic Association, Lisa Lacasse and Gail Hoelscher** (Department of Permitting Services – Issuance of Building Permit No. 405997, dated June 22, 2006). Letter to the Board from Norman Knopf, Esquire, withdrawing the appeal and requesting a refund of the filing.

Action: (1) Dismissed the appeal as withdrawn; (2) granted a 50% (\$100.00) refund of the filing fee, (DLB/CGT, 5-0).

2. **A-6171, Appeal of Fairfield Germantown Farms, LP** (Department of Public Works and Transportation – Interpretation of Executive Regulation 15-04AM). Joint Motion To Stay from Todd Brown, Esquire, and Malcolm Spicer, Associate County Attorney.

Action: (1) Granted a 6 month continuance until 5/6/07; (2) re-scheduled public hearing, (DLB/WMH, 5-0).

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